

House Bill 1625
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 40.108(c), Natural Resources Code, is amended to read as follows:

(c) The commissioner must comply with the requirements of Section 40.254 before removing or disposing of a vessel or structure described in Subsection (a), except that the commissioner may remove a vessel or structure without first providing notice and an opportunity for a hearing if the vessel or structure:

- (1) is involved in an actual or threatened unauthorized discharge of oil;
- (2) creates an imminent and significant threat to life or property; or
- (3) creates a significant navigation hazard [~~without a hearing~~].

SECTION 2. Section 40.254, Natural Resources Code, is amended by amending Subsections (b-1), (c-1), (c-2), and (d) and adding Subsections (c-3), (c-4), and (d-1) to read as follows:

(b-1) The preliminary report must:

- (1) state the facts that support the commissioner's conclusion;
- (2) in the case of a derelict vessel or structure, determine whether the vessel or structure is considered:

(A) a numbered vessel; [~~or~~]

(B) a vessel or structure that has no intrinsic value; or

(C) a vessel or structure described by Section 40.108(c)(1), (2), or (3);

(3) recommend:

(A) that a penalty be imposed;

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SECTION 1. Section 40.108(c), Natural Resources Code, is amended to read as follows:

(c) The commissioner must comply with the requirements of Section 40.254 before removing or disposing of a vessel or structure described in Subsection (a), except that the commissioner may remove a vessel or structure without first providing notice and an opportunity for a hearing if the owner or operator of the vessel or structure, or a person acting on behalf of the owner or operator, is not taking reasonable steps to abate the discharge, threat, or hazard described by Subsection (a) and the vessel or structure:

- (1) is involved in an actual or threatened unauthorized discharge of oil;
- (2) creates an imminent and significant threat to life or property; or
- (3) creates a significant navigation hazard [~~without a hearing~~].

SECTION 2. Same as House version.

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(B) that a certificate be suspended;

(C) that a derelict vessel or structure be removed or disposed of; ~~[or]~~

(D) that a derelict vessel or structure be removed or disposed of because it is a vessel or structure described by Section 40.108(c)(1), (2), or (3); or

~~(E)~~ any combination of remedies under Paragraphs ~~(A)-(D)~~ ~~[(A)-(C)]~~; and

(4) if a penalty under Subdivision (3)(A) is recommended, recommend the amount of the penalty.

(c-1) Except as provided by Subsection (c-3), the ~~[The]~~ notice required by Subsection (c) must be given:

(1) by service in person or by registered or certified mail, return receipt requested; or

(2) if personal service cannot be obtained or the address of the person is unknown, by posting a copy of the notice on the facility, vessel, or structure and by publishing notice on the Internet website of the General Land Office and in the Texas Register at least two times within 10 consecutive days.

(c-2) If notice is given in the manner provided by Subsection (c-1), not later than the 20th day after the date on which the notice is served or mailed, or not later than the 20th day after the later of the date on which the notice was posted or the last date the notice was published, as applicable, the person charged with the violation or a person claiming ownership of the facility, vessel, or structure may consent in writing to the report, including the commissioner's recommendations, or make a written request for a hearing.

~~(c-3)~~ The notice required by Subsection (c) must be given by posting a copy of the notice on a derelict vessel or structure or by publishing notice on the Internet website of the General Land Office for 10 consecutive days if the derelict vessel or

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structure has been determined to have no intrinsic value under Subsection (b-1) and:

(1) the vessel or structure is not a numbered vessel or structure;

(2) there are no identifiable markings on the vessel or structure for which the current owner can be reasonably identified for service; or

(3) the address of the person charged with the violation is unknown.

(c-4) If notice is given in the manner provided by Subsection (c-3), not ~~[(d) Not]~~ later than the 10th ~~[20th]~~ day after the date on which the notice was posted or the last date the notice was published ~~[is served]~~, the person charged with the violation or a person claiming ownership of the ~~[a]~~ vessel or structure ~~[for which notice is posted under Subsection (e-2)]~~ may consent in writing to the report, including the commissioner's recommendations, or make a written request for a hearing.

(d) If a vessel or structure is removed without notice as authorized by Section 40.108(c), the commissioner shall serve written notice of the removal to the person charged with the violation not later than the 10th day after the date on which the removal occurs. The removal notice must:

(1) include the information required to be in a preliminary report notice under Subsection (c); and

(2) be provided in the manner described by Subsection (c-1), except that notice provided under the circumstances described by Subsection (c-1)(2) is not required to be posted on the vessel or structure.

(d-1) If notice is given in the manner provided by Subsection (d), not later than the 20th day after the date on which the notice is served or mailed, or not later than the 20th day after the last date the notice was published, as applicable, the

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person charged with the violation or a person claiming ownership of the vessel or structure may consent in writing to the report, including the commissioner's recommendations, or make a written request for a hearing.

SECTION 3. Section 40.254(e), Natural Resources Code, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

(1) If the person charged with the violation or a person claiming ownership of a facility, vessel, or structure for which notice is provided under Subsection (c-1), (c-3), or (d) [posted under Subsection (c-2)] consents to the commissioner's recommendations or does not timely respond to the notice, the commissioner by order shall take the recommended action or order a hearing to be held on the findings and recommendations in the report.

(3) The commissioner is not required to provide notice under Subdivision (2) of this subsection if notice was provided under Subsection (c-1)(2), (c-3), or (d) and the subject of the notice is a vessel or structure that was removed in the manner provided by Section 40.108.

SECTION 4. Section 40.254(f)(1), Natural Resources Code, is amended to read as follows:

(1) If the person charged with the violation or a person claiming ownership of a facility, vessel, or structure for which notice is provided under Subsection (c-1), (c-3), or (d) [posted under Subsection (c-2)] requests a hearing, the commissioner shall order a hearing and shall give written notice of that hearing.

SECTION 5. Section 40.254(g)(1), Natural Resources Code,

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SECTION 3. Same as House version.

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is amended to read as follows:

(1) Not later than the 30th day after the date on which the commissioner's order is final, the person charged with the violation or a person claiming ownership of the facility, [a] vessel, or structure ~~[for which notice is posted under Subsection (e-2)]~~ shall comply with the order or file a petition for judicial review.

SECTION 6. The changes in law made by this Act apply only to an enforcement proceeding commenced by the General Land Office on or after the effective date of this Act. A proceeding commenced before the effective date of this Act is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2017.

SECTION 6. Same as House version.

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